

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

KATHLEEN GREENAN RAMSEY
TELEPHONE: (202) 945-6922
FACSIMILE: (202) 424-7645

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TELEPHONE (212) 973-0111
FACSIMILE (212) 891-9598

May 12, 2004

NOTICE OF EX PARTE COMMUNICATION

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Implementation of the Pay Telephone Reclassification and Compensation
Provision of the Telecommunications Act of 1996,
CC Docket Number 96-128

Dear Ms. Dortch:

To elaborate on the discussion with staff at our meeting on May 5, 2004, 1-800 American Free Trade Association (1-800-AFTA) submits these additional comments on the implementation of the new payphone compensation rules for the purpose of achieving more cost-effective ways for smaller carriers to comply with those rules.

1. Use of Clearinghouses

The Commission should clarify that under Section 64.1301, SBRs and other Completing Carriers may use the services of clearinghouses to fulfill their obligations, and that the use of clearinghouses is not contingent upon the approval of PSPs as long as the clearinghouse functions are audited in accordance with Section 64.1320. Notwithstanding the aforesaid, the Commission should reiterate that Completing Carriers who choose to delegate functions to clearinghouses remain ultimately responsible for compliance with the rules and liable for all payments required pursuant thereto.

2. CFO Statements

When Completing Carriers use a clearinghouse, and do not submit payments directly to PSPs, the Commission should permit the Section 64.1310(a)(3) requirements to be satisfied by

(a) publication on the clearinghouse's Internet site of the CFO statements from each of the Completing Carriers for which it processes PSP payments, and (b) submission of a statement by the clearinghouse with the payment to each PSP referring the PSP to the URL(s) on its Internet site where the statements from the Completing Carriers can be accessed. In addition, the Commission should clarify that with respect to the clearinghouse functions, the CFO statements may be based upon "information and belief," as opposed to actual knowledge.

3. Audit Requirements

The Commission should clarify that when Completing Carriers use clearinghouses to process payments, the audit requirements of Section 64.1320 may be satisfied by separate audits of the functions performed by the Completing Carrier (section 64.1320(c)(1) through (c)(8) and subsections 64.1320(c)(9)(i) through (c)(9)(iii)) and those performed by the clearinghouse (sections 64.1320(c)(8) and (c)(9)(iv)). Completing Carriers should be required to conduct the audits of the functions they perform pursuant to the Commission's Rules, but Completing Carriers should be permitted to rely upon clearinghouses to arrange for the audits of the functions the clearinghouses perform, provided the clearinghouses' audit reports are submitted to the Commission and PSPs in the same manner as the audit reports of the Completing Carriers. It is our understanding that this is the manner in which at least one of the major clearinghouses currently operates with interexchange carriers that utilize its services. In addition, the Commission should permit fulfillment of the requirement to file audit reports with each PSP through publication on the clearinghouse Internet site and notice to the PSPs in the manner outlined above for quarterly CFO statements.

4. Payment by IXC

If an SBR elects to pay its IXC for 100 percent of all PSP calls forwarded to the SBR, whether completed or not, and the IXC undertakes to compensate the PSPs directly for such calls, the Commission should clarify that (a) PSP approval is not required for the arrangement; (b) the SBR's obligation to file quarterly CFO letters and audit reports is subsumed within the parallel obligation of its IXC, and (c) audits and audit reports are not required from the SBR. In such a situation, the IXC should be required to identify the SBRs for which it is processing PSP payments, either on its own Internet site, or that of its clearinghouse. Notwithstanding the aforesaid, the Commission should reiterate that an SBR who chooses to delegate functions to its IXC remains ultimately responsible for PSP payments required under the rules.

5. Support for 1-800 AFTA Comments

Since the February 20, 2004, filing of the 1-800 AFTA Reply Comments in this proceeding, several companies which are not yet members have apprised 1-800 AFTA of their support for those comments. Copies of letters of support from VPT, Inc., Call Source, BH Telecom, NTS Communications, Inc., Cypress Telecommunications Corp., and Earnware Corporation are attached hereto.

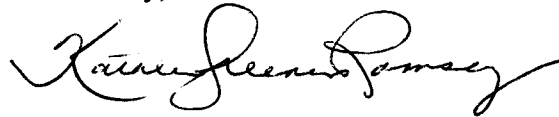
Marlene H. Dortch, Secretary

May 12, 2004

Page 3

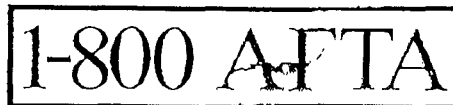
We wish to thank you again for the opportunity to meet with staff to discuss these issues and your consideration of these further comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Ramsey", written in a cursive style.

Kathleen Greenan Ramsey
Counsel for 1-800 American Free Trade
Association

cc: Michelle Carey, FCC (*via electronic mail*)
Darryl Cooper, FCC (*via electronic mail*)
Denise Coca, FCC (*via electronic mail*)
Andrew Montroll, 1-800 AFTA (*via electronic mail*)



1-800 American Free Trade Association

MK, LB

Dear 1-800 AFTA:

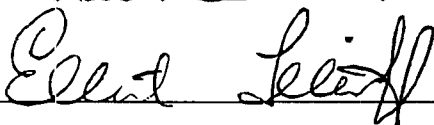
We understand that AFTA filed comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you highlighted significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort, and you are hereby authorized to add the name of our company as joint commenter to the filing.

Company VPT, INC.
By (Signature) Kerry Spradley
Name (Print) KERRY E. SPRADLEY
Title PRESIDENT
Address 211 E. 7TH STREET, SUITE 707
AUSTIN, TEXAS 78701
Phone 512-419-4600
Fax 512-419-4601
Email kerrys@vptnet.com
Date 5/7/4

Dear 1-800 AFTA:

We understand that you intend to file comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you will highlight significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort and you are hereby authorized to add the name of our company as joint commenters to the filing.

Company Name: Call Source

By: 

Signature

Name: Elliot Leiboff

Date: 4-29-04

Address: 31280 Oak Crest Dr

Suite 3

Westlake Village CA 91361

Phone: 818 - 673-4776

Fax No.: 877 - 288-9009

Email: e.leiboff@CallSource.com



1-800 American Free Trade Association

Dear 1-800-AFTA:

We understand that 1-800-AFTA intends to file comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you will highlight significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort, and you are hereby authorized to add the name of our company as joint commenter to the filing.

Company BH Telecom

By (Signature) C. Maurano

Name (Print) Carlisle Maurano

Title VP operations

Address 9301 Wilshire Blvd. Suite 214

Phone 310-273-9023

Fax _____

Email _____

Date 2/29/04

1-800 AFTA*1-800 American Free Trade Association*

Dear 1-800-AFTA:

We understand that 1-800-AFTA intends to file comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you will highlight significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort, and you are hereby authorized to add the name of our company as joint commenter to the filing.

Company NTS Communications, IncBy (Signature) Barbara AndrewsName (Print) BARBARA ANDREWSTitle President / CEOAddress 5307 W Loop 289Galveston, TX 77554Phone 806-797-0697Fax 806-788-3393

Email _____

Date 2-26-04



1-800 American Free Trade Association

Dear 1-800-AFTA:

We understand that 1-800-AFTA intends to file comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you will highlight significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort, and you are hereby authorized to add the name of our company as joint commenter to the filing.

Company CYPRESS Telecommunications Corp.
By (Signature) RW Livingston
Name (Print) Robert W. Livingston
Title President
Address 3838 N. Sam Houston Pkwy East, #400
Houston, TX 77032
Phone 281-449-4000
Fax 281-987-0065
Email blivingston@cytelcom.com
Date 2.25.04

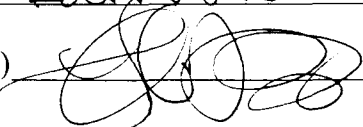
MAR 15 2004

1-800 AFTA

1-800 American Free Trade Association

Dear 1-800-AFTA:

We understand that 1-800-AFTA intends to file comments with the Federal Communications Commission in the matter of "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," Docket No. 96-128, in which you will highlight significant problems with the rules adopted by the FCC through its Report and Order dated September 30, 2003. We fully support your effort, and you are hereby authorized to add the name of our company as joint commenter to the filing.

Company Earnware Corporation
By (Signature) 
Name (Print) Sarah R Buscaren
Title VP of Finance
Address 1651 El Camino Real
Carlsbad, CA 92009
Phone 888-388-4359
Fax 888-388-4359
Email Sarah@earnware.com
Date 3/9/04

* Please note: This is a new address.
We've moved.